

DEPARTMENT OF BENEFIT PAYMENTS

744 P Street
Sacramento, California 95814



January 7, 1975

ALL-COUNTY LETTER NO. 75-10

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: WEBB v. CARLESON

REFERENCE:

In a letter dated November 7, 1973, you were advised of the judgment of the Sacramento County Superior Court in the case of Webb v. Carleson. This judgment precludes the recovery of aid paid pending a fair hearing decision, except in cases of fraud. Our appeal in the Webb case was unsuccessful, and the Superior Court's judgment is now final. Accordingly, it is now necessary to implement the portions of that judgment which were stayed pending our appeal.

In the November 7, 1973 letter regarding the Webb case, you were advised to restore recoveries of aid paid pending a fair hearing to all individuals from whom such recoveries were made since June 11, 1973, except in those cases where aid was paid pending a fair hearing as a result of a willful failure to report facts or any willfully fraudulent device. It is now necessary to restore all such aid pending recoveries made pursuant to EAS §§ 44-333 and 44-335 prior to that date. In order to facilitate identification of the individuals who may now be entitled to refunds as a result of the Webb judgment, we have searched fair hearing records and compiled a list of potentially affected persons. All persons on this list will receive from this Department a notice informing them of the possibility that they may be entitled to a refund. A copy of this notice is attached for your information. Also enclosed is a listing of those persons who had fair hearings in your county and who may be eligible for a refund of aid pending monies previously recovered. If you are contacted by any affected individual on or before March 31, 1975, you should determine whether that individual received aid paid pending as a result of a willful failure to report facts or any willfully fraudulent device. If not, then you should determine

OBSOLETE

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Superseded by ACL # 77-15

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ALL COUNTY WELFARE DIRECTORS

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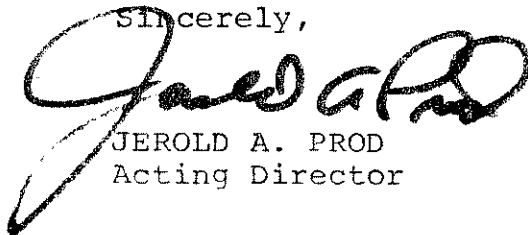
whether and in what amount you recovered aid paid pending from that individual. The amount so determined should be promptly refunded.

The notices to potentially affected individuals will be sent to the addresses contained in our fair hearing files. Since these addresses may not be current in all cases, you should forward a copy of the attached notice to any individual on the enclosed list at any more current address indicated in your files. As you will note, the affected individuals will be required to request a refund from the welfare department in the county where his fair hearing was held. If you are contacted by an individual who may be entitled to a refund from another county, you should assist that individual in making an appropriate claim.

The Superior Court's judgment in the Webb case also requires that the "Notice of Intended Action" forms (ABCD 239) be changed to amend or remove the notice to recipients to the effect that the county may recover aid pending as an overpayment. Revised forms have been prepared and are currently being used by some counties (see attached sample). It is necessary that the revised language in Forms ABCD 239 be used by all counties. Therefore, you are instructed to use only forms containing the revised notice to recipients regarding recovery of aid pending, as soon as you are able to do so.

If you have any questions concerning the Webb case or the notice procedures outlined herein, you should contact the Office of the Chief Referee, Telephone Number: (916) 322-2797.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jerold A. Prod", is written over the typed name and title.

JEROLD A. PROD
Acting Director

cc: CWDA

Attachments

IMPORTANT NOTICE

YOU MAY BE ENTITLED TO A REFUND OF MONEY FROM THE WELFARE DEPARTMENT

You may be entitled to a refund of money from the welfare department if you were required to repay aid you received pending a fair hearing. In order to be eligible for this refund you must have:

1. Received aid pending a fair hearing decision;
2. Been required to pay back all or a portion of the aid you received while your fair hearing was being decided; and
3. Paid back all or a portion of the money you received.

You are not eligible for a refund if you received aid pending the fair hearing decision as a result of a willful failure to report facts or because of any willfully fraudulent device.

If you think that you may be eligible for this refund, you should contact the county welfare department in the county where your fair hearing was held by March 31, 1975. You should also contact the county welfare department if you have any questions about whether you are eligible for a refund.

DO NOT CUT OR TEAR - SEND THIS ENTIRE PAGE

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1. You have the right to a conference with representatives of the county welfare department to talk about this intended action. At the conference, you may speak for yourself or be represented by a lawyer, a friend or other spokesman. If you want a conference, contact your county worker within 10 days of the date of this notice.
2. Whether you request a conference or not, you also have the right to request a Fair Hearing and decision by the Director of the Department of Benefit Payments (see form below). Your request must be written and must state that you want a hearing and why you are dissatisfied. Your request for a hearing must be made within 90 days of the date of this notice.

IF YOU ASK FOR A FAIR HEARING WITHIN 10 DAYS OF THE DATE OF THIS NOTICE, YOUR AID MAY BE CONTINUED UNTIL THE FAIR HEARING DECISION HAS BEEN REACHED.

3. If the Fair Hearing decision is that the county action was correct, and it is determined that you received aid pending the Fair Hearing decision as a result of a willful failure to report facts, or because of any willfully fraudulent device, the aid pending the Fair Hearing decision is an overpayment and may be recovered from you by reducing your welfare grant or through other legal means.
4. Your county worker will help you ask for a Fair Hearing.
5. At a Fair Hearing you have the right to be represented by an attorney or any other person (a friend, relative, or other spokesman) of your choice. If you need an interpreter we will provide one for you. You may obtain free legal advice and the services of a lawyer by contacting the nearest legal services office.

6. State regulations governing Fair Hearings are available at this office of the county welfare department.

If you wish to request a fair hearing, please send this page to:

Office of the Chief Referee
State Department of Benefit Payments
744 P Street
Sacramento, California 95814

REQUEST FOR FAIR HEARING

I, _____ Name _____ Phone _____

Address _____

hereby request a fair hearing before the State Department of Benefit Payments from the action taken by _____

County regarding the receipt of public assistance.

The reasons for my request for a fair hearing are as follows: _____

Signed: _____

On: _____ Date _____

If you request a hearing, you should use the above form and send the entire page; keep the other copy for your records. If someone other than yourself completes and signs this request for a Fair Hearing, you must complete an Authorized Representative Form DPA 19, authorizing that person as your representative.